

JAN 30 2004 3:13 PM FR

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FAX MESSAGE

Send To:

1. Name: **Examiner San Ming R. Hui** FAX Number: **703-872-9306**
Group 1617
Firm: **U.S. Patent and Trademark Office** Telephone Number: **703-305-1002**

From:

Name **Donald J. Bird** Floor: Operator Sending:
Telephone Number: **202-739-5320** Time Sent: Date Sent: **January 30, 2004**

Number of Pages (INCLUDING COVER PAGE): **9**

Note:

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Re: **U.S. Patent Application of Evans et al.**
U.S. Serial No. 09/756,291 Group Art Unit: **1617**
Filed: January 9, 2001
For: FORMULATION Examiner: **Hui, San Ming. R.**

Attached: 1. **AMENDMENT TRANSMITTAL FORM** with authorization to charge \$840.00 to Deposit Account No. 50-0310 for Second and Third Month Extension of Time Fee (1st month already paid)

2. **SUPPLEMENTAL AMENDMENT AFTER FINAL**

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ATTORNEY DOCKET NO.: 056291-5004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re PATENT APPLICATION of:

EVANS et al.

Appln. No.: 09/756,291

Filed: January 9, 2001

FOR: FORMULATION

)
) Group Art Unit: 1617
)
) Examiner: Hui, San Ming R.
)
)
)
)Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop AF
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Date: January 30, 2004

FILED VIA FACSIMILE

Sir:

AMENDMENT (FEE) TRANSMITTAL FORM1. Transmitted herewith is an Amendment responding to the Office Action dated August 27, 2003.

2. Additional papers enclosed:

- ☐ Information Disclosure Statement
- ☐ Form PTO-1449, copies of ___ references
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.
- ☐ Drawings: ☐ Formal ☐ Informal (Correction)

ATTORNEY DOCKET NO.: 056291-5004

Application No.: 09/756,291

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3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

- ☐ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.
- ☒ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 420.00	\$210.00
<input checked="" type="checkbox"/> three months	\$ 950.00	\$475.00
<input type="checkbox"/> four months	\$1,480.00	\$740.00
<input type="checkbox"/> five months	\$2,010.00	\$1,005.00

If an additional extension of time is required, please consider this a Petition therefor.

- ☐ An extension for 1 month has already been secured and the fee paid therefor of \$110.00 is deducted from the total fee due for the total months of extension now requested.

Extension of time fee due with this request: \$840.00

4. Constructive Petition

- ☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

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Application No.: 09/756,291

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5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	12	minus	47	0	x \$18/\$9 each=	\$ 0.00
Independent Claims (37 C.F.R. §1.16(b))	2	minus	4	0	x \$86/\$43 each=	\$ 0.00
First presentation of Multiple dependent claim(s): previously paid					\$290/\$145	\$ 0.00
SUB-TOTAL =						\$ 0.00
Fee for <u>3</u> Month Extension of Time minus fee previously paid (\$110.00)						\$ 840.00
TOTAL FEE =						\$ 840.00

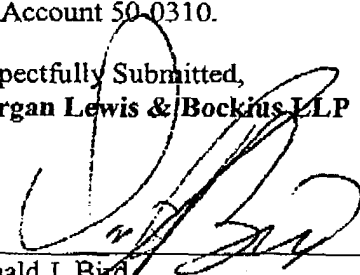
6. Fee Payment

- ☒ The Commissioner is hereby authorized to charge \$840.00 to Deposit Account No. 50-0310 for Second Month Extension of Time Fee.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully Submitted,
Morgan Lewis & Bockius LLP

Date: January 30, 2004
Morgan Lewis & Bockius LLP
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DJB:mk

By:


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Sir:

SUPPLEMENTAL AMENDMENT AFTER FINAL

Supplemental to the Amendment and Response After Final filed on December 29, 2003, it is respectfully requested that the following further amendment be entered. This amendment adds new dependent claim 51, which is identical to existing claim 25 except dependent upon existing claim 28. As discussed in the Remarks below, the conditions of 37 CFR 1.116(c) and MPEP ¶ 714.13 have been met, and entry of claim 51 requires only a cursory review by the Examiner. Therefore, entry of this Supplemental Amendment After Final is believed to be in order and is respectfully requested.

Amendments to the Claims are reflected in the claim listing which begins at page 2.

Remarks/Arguments begin on page 4 of this paper.